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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,446	12/12/2003	Masaaki Yamanaka	244586US0CONT	2331

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EXAMINER

KRUEER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,446

Applicant(s)

YAMANAKA ET AL.

Examiner

Kevin R. Kruer

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/7/2005.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 4/7/2005 has been fully considered. A signed copy of said 1449 is enclosed herein.

Specification

2. The abstract filed June 16, 2005 is acknowledged and is sufficient for overcoming the objection noted in the Office Action of 11-18-2004.

Claim Rejections - 35 USC § 112

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim refers to the core (layer (i)) as a surface layer. For purposes of examination, the claim will be read to read on a laminate wherein the core comprises 50-80% of the total thickness.

Claim Rejections - 35 USC § 103

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (US 6,686,055) in view of Touhsaent (US 6,013,353) and EP0613919 (herein referred to as Ueda) for reasons of record.

Tanaka teaches a polypropylene composite film comprising a crystalline polypropylene layer, and a propylene-1-butene random copolymer layer that is laminated on a least one surface of the crystalline polypropylene layer. The random

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copolymer comprises 50-95wt% of constituents derived from propylene, and may contain constituent units derived from olefins other than propylene and 1-butene in small amounts (col 5, lines 14+) and catalyzed with a metallocene catalyst (col 7, lines 15+). Said polymer preferably has a melting point of 80-130C (col 5, lines 50+) and crystallinity in the range of 15-65% (col 6, lines 63+). The examiner takes the position that the random copolymer with said crystallinity meets the "extraction amount" limitation of claim 4 since extraction amount is a measure of a polymer's crystallinity. The random copolymer may further comprise an antistatic agent (col 19, lines 64+). The crystalline polypropylene is a homopolymer or a random copolymer containing small amounts (less than 5mol%) of other olefins such as ethylene, 1-butene, etc (col 4, lines 50+) and preferably has a melt index of 0.1-10 (col 4, lines 45+). Said laminate is monoaxially stretched (col 20, lines 11+) and is used for high speed packaging such as fill packaging (Herein understood to read on the claimed "blister package" of claim 8. The core has a thickness of 5-200um and the random copolymer layers have thickness of 0.1-50um (col 21, lines 4+).

Tanaka does not teach that said film should comprise an inorganic filler. However, Touhsaent teaches an oriented multi-layer film comprising a core layer and two skin layers (abstract). Touhsaent teaches that an opaque film may be obtained by adding cavitating agents such as PET, nylon, metal, or ceramic particles to the core prior to orientation (col 2, lines 46+). Suitable amounts of cavitating agents is usually less than 20wt% (col 2, lines 46+) and said particles have a size of 0.1-10um. . Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to add 1-20wt% of an inorganic filler to the core layer of the laminate taught in Tanaka. The motivation for doing so would have been to obtain an opaque film.

Tanaka also does not teach the amount of antistatic agent claimed in claim 1 or the claimed antistatic agent of claim 6. However, Ueda teaches an antistatic agent that reads on the claimed antistatic agent. Said antistatic agent may be utilized in polypropylene compositions (page 9, lines 34-42), and comprises a polyetheresteramide antistatic agent, a polyamide resin, and a compatilizer. Said antistatic agent is utilized in amounts of 5-45wt% based upon the composition. Said antistatic agent is compatible with polypropylene, heat resistant, maintains antistatic properties permanently (abstract) and does not rinse away in the presence of water. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the antistatic agent taught in Ueda as the antistatic agent in the surface layers of the laminate taught by Tanaka. The motivation for doing so would have been that said antistatic agent is compatible with polypropylene, heat resistant, maintains antistatic properties permanently (abstract) and does not rinse away in the presence of water.

Response to Arguments

Applicant's arguments filed June 16, 2005 have been fully considered but they are not persuasive.

Applicant argues Claim 16 is not indefinite because said embodiment is disclosed on page 12, lines 9-13 of the specification. The examiner respectfully disagrees. Page 12 states "substrate layer (i)" not "surface layer (i)." Since claim 1

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recites that both sides of layer (i) may be covered with layers (ii), it is not proper to refer to layer (i) as a "surface" layer.

With respect to the rejection of claims 1-18 as being obvious over Tanaka in view of Touhsaent and Ueda, Applicant argues there is no suggestion of the incorporation of inorganic filler or an organic filler into the propylene layer taught in Tanaka in order to prepare an opaque base layer. The examiner agrees but notes Tanaka was never relied upon for such a teaching. Rather, Touhsaent was relied upon to teach the addition of cavitating particles into the core of a multi-layer film in order to obtain an opaque film. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues Touhsaent does not teach or suggest the incorporation of a fine inorganic powder into the core. The examiner respectfully disagrees. Touhsaent teaches the incorporation of cavitating agents such as PET, nylon, metal, or ceramic particles into the core prior to orientation (col 2, lines 46+). Applicant further argues the art does not teach the incorporation of calcium carbonate into the layer (i), but said argument does not agree in scope with the claims. Specifically, none of the claims require the core layer to comprise calcium carbonate.

According to Applicant, Touhsaent further fails to establish a prima facie case of obviousness with Tanaka because said reference does not teach the surface layer

should contain an anti-static agent. Said argument is noted. However, the examiner never relied upon Touhsaent for such a teaching. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With regard to Ueda, Applicant questions whether the reference, in fact, is being relied upon because it is only very briefly mentioned and is not listed on the Form 892. Said reference is being relied upon as detailed in Paragraph 7 of the Office Action mailed November 18, 2004. The reference was inadvertently omitted on the Form 892 mailed November 18, 2004. Said reference has been included on the Form 892 included with this Office Action.

Applicant further argues Ueda has "no limits on the resins, mechanical strengths, and moldability characteristics." Said argument is noted. However, Ueda was never relied upon for such a teaching. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant further argues the findings of the present invention are that in order to prevent the reduction of sealing strength of a film and to improve the printability of a product film, the specific layered structure of the film product film of the present

invention must be met in all its claimed features. Said argument is noted but is not persuasive because counsel's arguments cannot take the place of evidence.

Conclusion

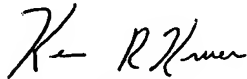
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer
Patent Examiner-Art Unit 1773